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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/761,865 | 01/17/2001 | Hiroshi Kyusojin | 09792909-4886 | 5798 |
| 26263 | 7590 | 07/20/2006 | EXAMINER | |
| SONNENSCHEIN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, SEARS TOWER CHICAGO, IL 60606-1080 | | | | SAM, PHIRIN |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2616 | |

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/761,865 | KYUSOJIN ET AL. | |
| | Examiner | Art Unit | |
| | Phirin Sam | 2616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 6 and 7 is/are allowed.
- 6) Claim(s) 1,2 and 5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

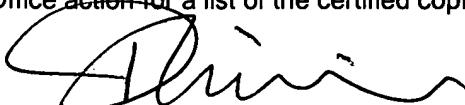
Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 January 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



PHIRIN SAM
PRIMARY EXAMINER

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 5,901,149 (hereinafter referred as “Itakura”).

Regarding claims 1 and 2, Itakura discloses a packet transmitting method comprising the steps of:

- (a) controlling a timing of packet transmission in a transmission terminal on a packet network (see Figs. 11 and 14, elements 193 and 205, col. 21, lines 44-49, and col. 22, lines 47-58);
- (b) controlling the amount of data to be transmitted per unit time from the transmission terminal to the network (see Fig. 11, element 192, col. 21, lines 49-54);
- (c) wherein a packet is transmitted at an interval according to a packet size (see Fig. 14, element 202, col. 22, lines 12-20).

Regarding claim 5, Itakura discloses a packet transmission apparatus comprising:

- (a) time calculating means for calculating time necessary for transmitting each packet (see Figs. 4, 11 and 14, elements 193 and 205, col. 12, lines 37-43, col. 21, lines 44-49, and col. 22, lines 47-58);

(b) means for controlling a timing of packet transmission based on the time for transmitting each packet, calculated by the time calculating means (see Fig. 14, element 202, col. 22, lines 12-20).

Allowable Subject Matter

3. Claims 6 and 7 are allowed.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, and 5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) US Patent 6,185,188 (Hasegawa) discloses method and apparatus for controlling physical port flow rate in packet communications.

(2) US Patent 6,128,316 (Takeda et al) discloses data transmitting apparatus data receiving apparatus and data transmission control apparatus.

(3) US Patent 6,111,892 (Rittle et al) discloses method and apparatus for conveying data packets in a communication system without using communication device timers to trigger data retransmission.

(4) US Patent 6,163,861 (Yoshioka et al) discloses error compensating method and apparatus and medium storing an error compensation program.

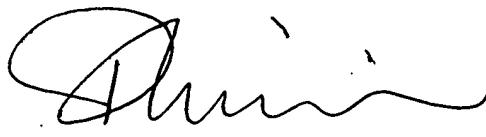
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phirin Sam whose telephone number is (571) 272-3082. The examiner can normally be reached on a compress schedule, from 8:00-5:30, first Wed off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272 - 3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully submitted,

Date: July 17, 2006



PHIRIN SAM
PRIMARY EXAMINER